

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 * * *

4 KEITON SMITH,

Case No. 2:22-cv-00872-CDS-EJY

5 Plaintiff,

6 v.

7 ORDER

8 NDOC, *et al.*,

9 Defendants.

10 Pending before the Court is Plaintiff's Motion for Video Recording of Cell or
 11 Area Search. ECF No. 150. The Court is in receipt of Defendants' Response (ECF
 12 No. 152), which is mostly non-responsive to Plaintiff's Motion. The Court is also
 13 in receipt of Plaintiff's Reply (ECF No. 153).

14 The Court finds Plaintiff's moving papers did not seek injunctive relief (albeit
 15 Plaintiff makes this request in his Reply, which is denied).¹ The Court further finds
 16 Plaintiff provides adequate points and authorities to support his initial Motion. The
 17 Court also finds Plaintiff's Motion relates to missing documents following a search
 18 of his cell—such documents directly relate to Plaintiff's Eighth Amendment claims
 19 pending before the Court—that has sufficient nexus to his claims. The Court, as it
 20 does for all IFP prisoner plaintiffs, liberally construes the Motion.

21 IT IS HEREBY ORDERED that Plaintiff's Motion for Video Recording of
 22 Cell or Area Search (ECF No. 150) is GRANTED in part as follows:

23 1. Defendants must no later than **March 24, 2025**, file a report with the
 24 Court advising if there is any record, whether video, audio, or in a paper format, of
 25 the search of Plaintiff's cell to which he refers in his Motion.

27 ¹ Plaintiff's Reply sets out the standard for injunctive relief and argues irreparable harm. Raising injunctive
 28 relief in Reply fails to provide Defendants with a meaningful opportunity to respond to Plaintiff's request. If Plaintiff
 seeks an order granting injunctive relief, he may refile a separate motion arguing he meets the standard for such relief
 thereby giving Defendants the opportunity to oppose such a motion.

2. Defendants are to return any documents related to this lawsuit to Plaintiff or, if such documents no longer exist, explain what if anything was taken and why it was destroyed.

3. If Defendants contend nothing was taken from Plaintiff's cell during the search, Defendants are to file a declaration to that effect with the Court.

IT IS FURTHER ORDERED that Plaintiff's request that he be present for any search of his cell is denied. The Court does not have an adequate basis to determine that such an order is necessary.

Dated this 3rd day of March, 2025.

Elayna J. Youchah
ELAYNA J. YOUCAH
UNITED STATES MAGISTRATE JUDGE